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## SENATE BILL No. 570

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7.

**Synopsis:** Deeds issued by local units of government. For deeds issued by a redevelopment commission or a metropolitan development commission and for conditional and final deeds issued under the urban homesteading program, establishes: (1) the limitations that apply to the title conveyed in the deed; (2) the period during which the issuance of the deed may be contested; and (3) that the deed is prima facie evidence of valid title and of the regularity of the sale and the procedure under which the deed is issued.

**Effective:** Upon passage.

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### Breaux

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January 20, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 570

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-7-14-12.2, AS AMENDED BY P.L.221-2007,  
2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 12.2. (a) The redevelopment commission may  
4 do the following:

5 (1) Acquire by purchase, exchange, gift, grant, condemnation, or  
6 lease, or any combination of methods, any personal property or  
7 interest in real property needed for the redevelopment of areas  
8 needing redevelopment that are located within the corporate  
9 boundaries of the unit.

10 (2) **Subject to subsection (e)**, hold, use, sell (by conveyance by  
11 deed, land sale contract, or other instrument), exchange, lease,  
12 rent, or otherwise dispose of property acquired for use in the  
13 redevelopment of areas needing redevelopment on the terms and  
14 conditions that the commission considers best for the unit and its  
15 inhabitants.

16 (3) Sell, lease, or grant interests in all or part of the real property  
17 acquired for redevelopment purposes to any other department of



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the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(7) Repair and maintain structures acquired for redevelopment purposes.

(8) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(9) Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.

(10) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commissioners.

(11) Institute or defend in the name of the unit any civil action.

(12) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the department of redevelopment.

(13) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 20 of this chapter.

(14) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(15) Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those appointments

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1 must be made in accordance with the merit system of the unit if  
2 such a system exists.

3 (16) Prescribe the duties and regulate the compensation of  
4 employees of the department of redevelopment.

5 (17) Provide a pension and retirement system for employees of  
6 the department of redevelopment by using the Indiana public  
7 employees' retirement fund or a retirement plan approved by the  
8 United States Department of Housing and Urban Development.

9 (18) Discharge and appoint successors to employees of the  
10 department of redevelopment subject to subdivision (15).

11 (19) Rent offices for use of the department of redevelopment, or  
12 accept the use of offices furnished by the unit.

13 (20) Equip the offices of the department of redevelopment with  
14 the necessary furniture, furnishings, equipment, records, and  
15 supplies.

16 (21) Expend, on behalf of the special taxing district, all or any  
17 part of the money of the special taxing district.

18 (22) Contract for the construction of:

19 (A) local public improvements (as defined in IC 36-7-14.5-6)  
20 or structures that are necessary for redevelopment of areas  
21 needing redevelopment or economic development within the  
22 corporate boundaries of the unit; or

23 (B) any structure that enhances development or economic  
24 development.

25 (23) Contract for the construction, extension, or improvement of  
26 pedestrian skyways.

27 (24) Accept loans, grants, and other forms of financial assistance  
28 from the federal government, the state government, a municipal  
29 corporation, a special taxing district, a foundation, or any other  
30 source.

31 (25) Provide financial assistance (including grants and loans) to  
32 enable individuals and families to purchase or lease residential  
33 units within the district. However, financial assistance may be  
34 provided only to individuals and families whose income is at or  
35 below the unit's median income for individuals and families,  
36 respectively.

37 (26) Provide financial assistance (including grants and loans) to  
38 neighborhood development corporations to permit them to:

39 (A) provide financial assistance for the purposes described in  
40 subdivision (25); or

41 (B) construct, rehabilitate, or repair commercial property  
42 within the district.

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(27) Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and

(C) at an affordable rate.

(b) Conditions imposed by the commission under subsection (a)(27) remain in force throughout the period determined under subsection (a)(27)(A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5.

**(e) Except as provided in subsection (f), a deed executed under subsection (a)(2) vests in the grantee an estate in fee simple absolute in the real property, free and clear of all liens and encumbrances created or suffered before or after the conveyance except:**

**(1) liens granted priority under federal law; and**

**(2) the lien of the state or a political subdivision for taxes and special assessments that accrue after the conveyance.**

**(f) The estate in the real property created in fee simple absolute under subsection (e) is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the grantee of the deed at the conveyance.**

**(g) A deed executed under this section:**

**(1) is prima facie evidence of:**

**(A) the regularity of the conveyance of the real property described in the deed;**

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(B) the regularity of the procedure under which the deed is issued; and

(C) valid title in fee simple absolute in the grantee of the deed; and

(2) is incontestable except by appeal from the action of the redevelopment commission in issuing the deed filed not later than sixty (60) days after the date of the issuance of the deed.

SECTION 2. IC 36-7-15.1-7, AS AMENDED BY P.L.146-2008, SECTION 744, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.

(2) **Subject to subsection (f)**, hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.

(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, or to any other governmental agency, for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes, on any terms that may be agreed upon.

(4) Clear real property acquired for redevelopment purposes.

(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(7) Repair and maintain structures acquired or to be acquired for

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redevelopment purposes.

(8) Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

(9) Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

(10) Subject to section 13 of this chapter, exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

(11) Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

(12) Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

(13) Contract for the construction, extension, or improvement of pedestrian skyways.

(14) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(15) Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(16) Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision (15); or

(B) construct, rehabilitate, or repair commercial property within the district.

(17) Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

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(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(18) Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

(19) Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

(20) Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

(4) The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary for any of the following:

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

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(C) To lessen density.

(D) To reduce traffic hazards.

(E) To eliminate obsolete or other uses detrimental to public welfare.

(F) To otherwise remove or prevent the conditions described in IC 36-7-1-3.

(G) To provide land for needed public facilities.

(5) The preparation of sites and the construction of improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

(6) The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

(7) The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections 8(c), 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

**(f) Except as provided in subsection (g), a deed executed under subsection (a)(2) vests in the grantee an estate in fee simple absolute in the real property, free and clear of all liens and encumbrances created or suffered before or after the conveyance except:**

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- (1) liens granted priority under federal law; and
- (2) the lien of the state or a political subdivision for taxes and special assessments that accrue after the conveyance.

(g) The estate in the real property created in fee simple absolute under subsection (f) is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the grantee of the deed at the conveyance.

(h) A deed executed under this section:

(1) is prima facie evidence of:

(A) the regularity of the conveyance of the real property described in the deed;

(B) the regularity of the procedure under which the deed is issued; and

(C) valid title in fee simple absolute in the grantee of the deed; and

(2) is incontestable except by appeal from the action of the commission in issuing the deed filed not later than sixty (60) days after the date of the issuance of the deed.

SECTION 3. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons or community organizations qualified under section 6 of this chapter by using the methods prescribed by subsection (b), (c), or (d).

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to a person purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

(1) will reside in the dwelling as ~~his~~ **the purchaser's** principal place of residence for a period of not less than three (3) years;

(2) will bring the residence up to minimum code standards in twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with such additional terms, conditions, and requirements as the agency requires before \_\_\_\_\_ (date of the deed) under IC 36-7-17".

(d) The title to real property may be conveyed to a community

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organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

- (1) will list the property for sale within twelve (12) months of taking possession;
- (2) will bring the residence up to minimum code standards within twelve (12) months;
- (3) will carry adequate fire and liability insurance on the dwelling at all times; and
- (4) will comply with any additional terms, conditions, and requirements as the agency requires before \_\_\_\_\_ (date of the deed) under IC 36-7-17."

**(e) Except as provided in subsection (f), a deed executed under this section vests in the grantee a determinable fee interest in the real property, free and clear of all liens and encumbrances created or suffered before or after the sale except:**

- (1) liens granted priority under federal law; and**
- (2) the lien of the state or a political subdivision for taxes and special assessments that accrue after the sale.**

**(f) The estate in the real property created by the determinable fee under subsection (e) is subject to:**

- (1) the conditions created under subsection (c) or (d); and**
- (2) all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the sale.**

**(g) A deed executed under this section:**

- (1) is prima facie evidence of:**
  - (A) the regularity of the sale of the real property described in the deed;**
  - (B) the regularity of the procedure under which the deed is issued; and**
  - (C) valid determinable fee title to the real property in the grantee of the deed; and**
- (2) is incontestable except by appeal from the action of the agency in issuing the deed filed not later than sixty (60) days after the date of the issuance of the deed.**

SECTION 4. IC 36-7-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) When, after purchase, a person has resided in the dwelling for the required three (3) year period, brought the property into compliance with the required

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code standards, and otherwise complied with the terms of the person's agreement, the agency shall convey to the person a fee simple title to the property.

(b) When, after purchase, a community organization has brought the property into compliance with the required code standards, documented its intent to list the property for sale, and otherwise complied with the terms of its agreement, the agency shall convey to it a fee simple title to the property.

(c) Except as provided in subsection (d), a deed executed under this section vests in the grantee an estate in fee simple absolute in the real property, free and clear of all liens and encumbrances created or suffered before or after the conveyance except:

(1) liens granted priority under federal law; and

(2) the lien of the state or a political subdivision for taxes and special assessments that accrue after the conveyance.

(d) The estate in the real property created in fee simple absolute under subsection (c) is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the grantee of the deed at the conveyance.

(e) A deed executed under this section:

(1) is prima facie evidence of:

(A) the regularity of the conveyance of the real property described in the deed;

(B) the regularity of the procedure under which the deed is issued; and

(C) valid title in fee simple absolute in the grantee of the deed; and

(2) is incontestable except by appeal from the action of the agency in issuing the deed filed not later than sixty (60) days after the date of the issuance of the deed.

SECTION 5. An emergency is declared for this act.

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